

Probate Practice Book Advisory Committee
Subcommittee I
Meeting Minutes

Tuesday, February 27, 2018
3:00 p.m.

Office of the Probate Court Administrator
186 Newington Road
West Hartford, CT

The meeting was convened at 3:15 p.m. by Judge Steven Zelman, Chair.

Other members in attendance: Attorney Bonnie Bennet, Attorney Douglas Brown, Attorney Paul Hudon, Mr. Stephen Pedneault, CPA, and Attorney Greta Solomon

Members Not Present: Attorney Molly Ackerly, Ms. Mary Ann Champney, Judge Michael Darby and Attorney Karen Gano

Approval of minutes of January 8, 2018 meeting

The minutes of the January 8, 2018 meeting were unanimously approved.

Review of Draft Rules

Attorney Bonnie Bennet directed the committee's attention to the changes to the draft rules that were made in response to the committee's discussion on January 9, 2018. She also highlighted new provisions to the proposed rules that are on the list of issues for the committee's consideration.

The committee made the following suggestions and recommendations regarding specific provisions:

Section 1.1 (definitions)

Section 1.1 (15) "Electronic signature". Attorney Paul Hudon questioned whether the definition should only refer to an electronic symbol rather than also referring to an electronic process. In light of the advances in technology and the goal of providing flexibility in the development of the eFiling system, the committee agreed to retain a reference to an electronic process. The change to the January 9, 2018 draft rule was intended to simplify the definition of electronic signature. Attorney Bennet acknowledged, however, that the definition in the earlier draft was drawn from the Connecticut Uniform Electronic Transactions Act and the Uniform Commercial Code and is a better definition of electronic signature.

Section 6.5 (petitions to review conduct of agent, compel account and construe power of attorney)

The committee made revisions to subsection (a) to make clear that to be considered as a single petition subject to one filing fee, the petitions must be filed simultaneously and involve the same power of attorney.

Section 7.4 (signature required)

Attorney Doug Brown suggested language in subsection (b) to make clear that, except as provided in subsection

(c), the court shall not act a request, motion, petition or other document sent by email unless sent through the eFiling system.

The committee discussed the changes to subsection (d) governing when an attorney may sign a document for a client who is a party. The draft rule addressed the concerns expressed in January. The committee agreed that the retention of the signed original or the form authorizing the attorney to sign the document on behalf of the client was the responsibility of the attorney.

Section 8.5 (how notice of hearing given)

Attorney Brown noted that the Superior Court eFiling system stamps the date and time on a notice sent by electronic service. While there is no need to change section 8.5 (b), it is recommended that the Probate Court eFiling system also notes the date and time that notice is sent by electronic service.

Section 12.2(court-appointed attorney registration for eFiling)

In response to a question raised by Attorney Hudon at the January meeting, Attorney Bennet reviewed the current rules to determine whether a definition of “matter” was necessary. In most places in the rules, matter refers to a particular case. Attorney Hudon suggested that where the rules list case types such as in section 12.2, the rules should refer to “types of” matters. Attorney Bennet will search other sections of the rules for similar lists of case types to include this clarification.

Section 36.12 (affidavit of closing)

The committee discussed the suggestion that a new provision be added to the section of Rule 36 concerning affidavits of closing to make clear to beneficiaries that they should take action if they haven’t received their distribution. After a full discussion, the committees determined that a rule change was not necessary, especially in light of the change in the 2017 rules requiring the fiduciary to send the affidavit of closing to all parties and certify to the court that it was sent. The committee was divided regarding whether the PC-213, Affidavit of Closing, should include language alerting beneficiaries to contact the court if they have not received their distribution. It was decided to forward the suggestion to the Procedures Review Committee for their review.

Miscellaneous Sections 40.6a, 44.4, 45.4 and 45.5

Attorney Bennet reported that several other 2017 Probate Court rules refer to regular mail. Subcommittees II and III are considering possible changes to these rules, including necessary changes to reference electronic service in addition to mail notice. Attorney Bennet will provide copies of these miscellaneous sections to the members of Subcommittee I with the revisions made to the draft rules identified above.

Next Meeting

Judge Zelman will schedule another meeting at the request of a committee member who has further comments or suggestions for discussion after reviewing the revisions to the draft rules to be sent to the committee.

Adjournment

The meeting was adjourned at 5:15 p.m.